

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA


STEPHEN ESCONDON MEDINA,) Civil No. 08cv0896 JLS(RBB)
)
Plaintiff,) ORDER GRANTING PLAINTIFF'S
) MOTION FOR EXTENSION OF TIME
v.) TO SERVE SUMMONS AND COMPLAINT
) ON DEFENDANT [DOC. NO. 9]
R. HUESO, Correctional Officer;)
CASTONE, Correctional Officer,)
)
Defendants.)
_____)

Plaintiff has submitted a Motion for Extension to Time to Serve Summons and Complaint on Defendant [doc. no. 9], which was filed nunc pro tunc to July 30, 2008. Medina requests an extension to time to effect service on Defendant Castone. Plaintiff completed a U.S. Marshal Form 285 directing the U.S. Marshal to serve the summons and Complaint on Defendant Castone at Calipatria State Prison, where Plaintiff believed he was employed. (See doc. no. 6.) Medina received notice on July 22, 2008, that service was not executed because Defendant Castone has never been employed at Calipatria. (Mot. for Extension 3.) He has thus far been unable to locate Castone for service. (Id.)

1 Federal Rule of Civil Procedure 4(m) provides that a plaintiff
2 must effect service of the summons and complaint within 120 days of
3 the filing of the complaint. Fed. R. Civ. P. 4(m). The Court must
4 grant an extension of time if the plaintiff shows good cause for
5 his failure to effect service in that time period, and the Court
6 has discretion to grant an extension even in the absence of good
7 cause. Efaw v. Williams, 473 F.3d 1038, 1040 (9th Cir. 2007)
8 (citing Mann v. Am. Airlines, 324 F.3d 1088, 1090 n.2 (9th Cir.
9 2003)). Here, Plaintiff has shown that he tried diligently to
10 serve Defendant Castone within Rule 4(m)'s time limitation, but he
11 has not been able to properly effect service. Because Medina has
12 established good cause for an extension, the Court **GRANTS** his
13 Motion for Extension of Time to Serve Summons and Complaint.
14 Plaintiff shall serve Defendant Castone on or before **October 17,**
15 **2008.**

16 **IT IS SO ORDERED.**

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18 Dated: August 18, 2008


Ruben B. Brooks
United States Magistrate Judge

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20 cc: Judge Sammartino
21 All Parties of Record
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